

REMARKS

Claims 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-74 are pending in the present application. Claims 5, 15, 29, 32, 66-74 are currently amended.

Support for the above amendments can be found throughout the specification and claims as originally filed. In claims 5, 15, 29, 32, and 70, support for the limitation "the fold line and the double stack of panels both extend substantially along the entire body end" can be found in Figures 7 and 8. In claims 66-69 and 74, support for phrase "the distal seal is substantially coextensive with the surface area of the double stack of panels distal to the non-resealable first seam" can be found at original paragraphs [40] and [47].

Claim Objections

In the Office Action, claims 71-74 are objected to as being substantial duplicates of claims 4, 16, 17, and 66. In response, Applicants have amended claims 71-74 to depend from claim 70.

Rejections under 35 U.S.C. § 112

In the Office Action (OA), claims 66-69 and 74 are rejected under 35 U.S.C. § 112, second paragraph, because "the first flap has not been defined to warrant the language 'the surface area distal to the non-sealable first area.'" OA at 3.

In response, said claims are amended to recite "the surface area of the double stack of panels distal to the non-resealable first seam" to better identify the location of the "distal seal." Said amended claims therefore overcome this rejection.

Rejections under 35 U.S.C. § 103(a)

In the Office action, claims 2, 4, 5, 8-17, 19, 20, 24-30, 32, 42, 44, 48-54, 56, 57,

59, 61 and 63-64 are rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,593,229 to Warr, U.S. Patent No. 3,249,285 to Dollheimer et al., and U.S. Patent No. Des. 327,217 to Wallace.

Amended claim 5 recites in part "a first flap formed from first portions of the opposing panels extending in the longitudinal direction beyond the first seam at the first end; a first handle formed in the first flap;" and "wherein the fold line and the double stack of panels both extend substantially along the entire body end, and the opposing panels, stacks of panels, or both are sealed to each other by a distal seal distal to the non-resealable first seam." As set forth in Applicants' previous response, Fig. 2 of Dollheimer does not disclose "a distal seal distal to the non-resealable first seam." As can be seen in Fig. 2 and the accompanying text of Dollheimer, the bag of Dollheimer includes a "heat seal which extends across the width of the bag and is adjacent the end 14, seals the end of the tubular formation 10, as well as sealing the folded portion to the side of the bag, as shown at 16." Dollheimer, col. 2, ll. 13-26. Dollheimer discloses a single seal to seal the folded portion to the side of the bag and seal the end of the bag. Dollheimer does not teach both "a non-resealable first seam" and a "distal seal," let alone "a distal seal distal to the non-resealable first seam," as claimed.

The current rejection identifies flap (21) of Dollheimer as a double stack of panels. OA at 3. This alleged "double stack of panels," however, does not "extend substantially along the entire body end" as recited in amended claim 5. A "double stack of panels [that] extend[s] substantially along the entire body end" as claimed provides a significant advantage over the handle of Dollheimer, specifically providing the additional strength from a "double stack of panels" across substantially the entire end of a bag.

Conversely, the handle of Dollheimer does not provide the additional strength from a "double stack of panels" across substantially the entire end of the bag because the alleged "double stack of panels," identified as item 21 in Fig. 4 of Dollheimer, extends only across a cutout section of the panel of Dollheimer forming the passthrough of the handle of Dollheimer. Moreover, one skilled in the art, would not, and in fact could not, modify Dollheimer to extend the alleged "double stack of panels" because item 21 in Fig. 4 of Dollheimer is formed from a cutout in the end of the bag. To extend the item 21 in Fig. 4 of Dollheimer would require cutting off substantially the entire end of the bag in Dollheimer, resulting in no handle. Accordingly, Dollheimer does not teach the claimed limitation and one skilled in the art would not, and could not, modify Dollheimer in the claimed manner.

Neither Warr nor Wallace remedy the deficiencies of Dollheimer.

The current Office Action further asserts that "to provide the opposing ends of the modified Warr bag with identical structures is taken to be admitted prior art" because "Applicant's remarks, filed 09/29/2009, inadequately address the Examiner's statement of obvious duplication of essential working parts". OA at 4-5. Applicants respectfully disagree.

First, the Office Action's disagreement with, or that the Office deems the response "inadequate" does not constitute an admission by the Applicants.

Second, as set forth in Applicants' remarks, filed 09/29/2009, and in this Response, the cited prior art does not teach the claimed limitations, such that "duplication" of the prior art is inapposite, namely the modified Warr bag does not include the claimed limitations.

Third, and also as set forth in the Applicants' remarks, filed 09/29/2009, one skilled in the art would not "duplicate" features of a single handle bag in view of the different manner in which a single handle bag and a two handle bag are used. Namely, as set forth in the previous Response, the limitation "a distal seal distal to the non-resealable first seam" provides a distinct advantage over the handles of the prior art. As set forth in the specification at original paragraphs [40] and [47] and amended paragraph [47], "the distal seal ... provides a more robust handle ... by preventing sheet material in flap ... from being pulled apart." As set forth in original paragraph [26], "[w]hen the bag is horizontally oriented, the user's hand contacts the side portions of the handle as well as the cutout portion" further reducing the pressure applied to the users hand. By providing a "more robust handle" with the distal seal, the present claim contributes to further reduce the pressure applied to the user's hand, an advantage not found in Dollheimer. Indeed, one skilled in the art would not modify the handle of Dollheimer as claimed because Dollheimer is a single handle bag that would not be horizontally oriented in the same manner as a multi-handle bag.

Accordingly, one skilled in the art would not make such a modification to Dollheimer, let alone make the modification and then combine Dollheimer with both Warr and Wallace.

Similarly, claims 15, 29, 32, and 70 recite "wherein the fold line and the double stack of panels both extend substantially along the entire body end, and the opposing panels, stacks of panels, or both are sealed to each other by a distal seal distal to the non-resealable first seam." Accordingly, claims 15, 29, 32, 70 are patentable over Dollheimer, Warr and Wallace for at least the same reasons set forth with respect to

claim 5.

Because claims 4, 16, 17, 42, 48-54 and 59 depend from claim 5, claims 2, 8-14, 44, 56-57 and 61 depend from claim 15, claims 19, 20, 24-28, 30, and 63 depend from claim 29, claims 64-65 depend from claim 32, claims 71-74 depend from claim 70, said claims are patentable over Dollheimer, Warr and Wallace for at least the same reasons set forth with respect to claim 5 above.

In the Office Action, claims 2, 4-10, 13-15, 19, 20, 22-25, 27-29, 32, 42, 44, 46-50, 53, 54, 59, 61, and 63-74 are rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 5,593,229 to Warr, U.S. Patent No. 3,249,285 to Dollheimer et al., and U.S. Patent No. 5,578,562 to Anspacher.

Anspacher does not remedy the deficiencies set forth above with respect to Dollheimer. Accordingly, said claims are patentable over Dollheimer, Warr and Anspacher, alone or in combination for at least the reasons set forth above.

Thus, Applicants respectfully request the above rejections be withdrawn.

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CONCLUSION

In view of the foregoing, it is submitted that the claims are in condition for allowance. A Notice of Allowance is requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact the undersigned at 310-788-9900.

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Respectfully submitted,

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